

### **Remarks**

Reconsideration and reexamination of the above-identified patent application, as amended, are respectfully requested. The above-identified patent application is a reissue application of U.S. Patent No. 5,902,667. Claims 1-6 and 13-17 are pending in this application upon entry of this Amendment. In this Amendment, the Applicant has amended claims 13-14. No claims have been cancelled or added in this Amendment. Of the pending claims, claims 1, 6, and 13 are the only independent claims.

The Applicant has amended independent claim 13 to replace the transitional phrase "consisting of" with the transitional phrase "comprising." Support for this amendment is found in independent claim 1. The Applicant has also amended independent claim 13 to recite that the claimed "release coating" is "a non-thermoplastic release coating." Support for this amendment is found on col. 4, line 50 through col. 5, line 2. The Applicant has further amended independent claim 13 and has amended claim 14 to change "base layer" to "base sheet." Support for this amendment is found on FIGS. 6-8 and col. 4, lines 59-64.

### **Claim Rejections - 35 U.S.C. § 102**

In the Office Action mailed June 21, 2004, the Examiner rejected claims 1-5 and 13-17 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,411,783 issued to Mahn ("Mahn"). The Applicant respectfully traverses this rejection and believes that claims 1-6 and 13-17, as presented in this Amendment, are patentable over Mahn for the following reasons.

#### **1. The Claimed Invention**

Independent claim 1 recites a cover sheet for impressing a pattern on a thermoplastic surface of an emblem. The cover sheet includes a base layer and a heat application release coating on the base layer. The release coating exhibits a heat resistant and

pressure resistant debossed or embossed impression complementing the pattern. The cover sheet, when placed with its release coating against and in registry with the thermoplastic surface of an emblem and heat and pressure are applied on said cover sheet and toward the emblem, the pattern is formed on the thermoplastic surface of the emblem.

Independent claim 6 recites a cover sheet combination for impressing a pattern on the surface of an emblem while affixing the emblem to a substrate. The cover sheet combination includes a cover sheet and an emblem. The cover sheet has a base layer and a release coating on one face thereof. The emblem has an upper thermoplastic layer and a lower adhesive layer. The release coating has an impression complementing the pattern. The emblem is positioned on the substrate in a location such that said upper thermoplastic layer is exposed. The cover sheet is superimposed on said emblem such that said release coating is in mating engagement with said upper thermoplastic layer. The cover sheet is heated and pressed toward the substrate and against said emblem to affix said emblem to the substrate and form the desired pattern on the emblem.

Independent claim 13 recites the cover sheet set forth in independent claim 1, but recites "a non-thermoplastic release coating" instead of "a release coating"; and recites "a base sheet" instead of "a base layer."

## 2. Mahn

The Examiner cited col. 3, lines 52-60 of Mahn ("heat . . . does not soften the . . . elastomer layer") to posit that Mahn discloses a heat resistant layer. The Examiner posited that this is all that is required in the claims, and further posited that nothing in the claims precludes the use of a thermoplastic release coating which is heat resistant over a particular temperature range. The Examiner further posited that the process limitations of the claims are not dispositive of the patentability of the claims as the claims are directed to an article.

### 3. The Claimed Invention Compared to Mahn

Independent claims 1 and 13 recite “a heat application release coating” wherein the “release coating exhibit[s] a heat resistant and pressure resistant debossed or embossed impression” (emphasis added). As such, the impression which is exhibited on the heat application release coating is itself “heat resistant and pressure resistant.” As claimed, the impression is heat and pressure resistant in order to impress its pattern on a thermoplastic surface of an emblem when placed in registry with the thermoplastic surface while heat and pressure are applied.

Thus defined, for the following reasons, Mahn does not teach or suggest a base layer having a “heat application release coating” wherein the “release coating exhibit[s] a heat resistant and pressure resistant debossed or embossed impression” (emphasis added). Mahn generally teaches a heat activated applique 11 having an upper thermoplastic elastomer layer 14 and a lower heat activated adhesive layer 12 in which the lower layer 12 bonds the upper layer 14 to a cloth substrate 15. (See FIG. 2.) To form the applique 11, the upper layer 14 and the lower layer 12 are laminated together. (See col. 3, lines 43-52.) To then apply the applique 11 to a cloth substrate 15 such as an article of clothing, heat and pressure are applied against the upper layer 14 toward the cloth substrate which causes the lower layer 12 to soften and penetrate the cloth substrate 15 thereby bonding the upper layer 14 to the cloth substrate 15. (See FIG. 1; and col. 3, lines 43-60.)

With reference to col. 4, lines 13-46, upper layer 14 may have debossed areas 37 in its surface. The debossed areas 37 are formed in the upper layer 14 through the use of “the heating iron” that has an embossed surface. Mahn does not appear to have previously introduced “the heating iron” and the Applicant believes that “the heating iron” refers to a device which is used to apply heat and pressure when adhering the applique 11 to a cloth substrate 15. In any event, the debossed area 37 in upper layer 14 is not “a heat resistant and pressure resistant debossed or embossed impression” as claimed as these debossed areas 37 are formed by the application of heat and presumably by the application of pressure. That is, the

debossed areas 37 are formed by the application of heat and pressure and thus cannot be a "heat resistant and pressure resistant debossed or embossed impression" as claimed.

Further, Mahn does not teach or suggest that the debossed areas 37 of upper thermoplastic layer 14 be "heat resistant and pressure resistant" as claimed nor suggest that the pattern 35 have these characteristics in order enable impression of the pattern onto the thermoplastic surface of an emblem. In sum, Mahn does not teach or suggest any need for debossed areas 37 to resist the application of heat and pressure in the formation of complementary thermoplastic impressions on an emblem; let alone that, if the applique 11 were placed with the debossed areas 37 of upper layer 14 against a thermoplastic surface of an emblem, and heat and pressure were applied, that the debossed areas 37 would form a pattern on the emblem's thermoplastic surface as claimed.

Moreover, amended independent claim 13 recites that the release coating is a "non-thermoplastic release coating." The Examiner posited in the Office Action that the claims do not preclude the use of a thermoplastic release coating which is heat resistant over a particular temperature range. As amended independent claim 13 recites a "non-thermoplastic release coating", the Applicant believes that amended independent claim 13 further distinguishes from Mahn.

Accordingly, the Applicant believes that independent claims 1 and 13 are patentable under 35 U.S.C. § 102(b) over Mahn. Claims 2-5 and 14-17 depend from one of independent claims 1 and 13 and include the limitations therein. Thus, the Applicant respectfully requests reconsideration and withdrawal of the rejection to claims 1-5 and 13-17 under 35 U.S.C. § 102(b).

Independent claim 6 recites a cover sheet combination for impressing a pattern on the surface of an emblem while affixing the emblem to a substrate. The cover sheet combination includes a cover sheet and an emblem. The cover sheet has a base layer and a

release coating thereon. The emblem has an upper thermoplastic layer and a lower adhesive layer.

As described above, Mahn generally discloses an applique 11. For argumentation purposes, the Applicant will assume that the applique 11 is analogous to either one of the cover sheet or the emblem. As such, Mahn only discloses one of the two claimed elements (i.e., only one of the cover sheet and the emblem) set forth in independent claim 6. Accordingly, the Applicant believes that independent claim 6 is patentable under 35 U.S.C. § 102(b) over Mahn. Thus, the Applicant respectfully requests reconsideration and withdrawal of the rejection to independent claim 6 under 35 U.S.C. § 102(b).

**Claim Rejections – 35 U.S.C. § 103**

The Examiner rejected claims 1-2, 4-6, 13-14, and 16-17 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,579,708 issued to Rosart (“Rosart”). The Applicant respectively traverses this rejection and believes that the claimed invention is patentable over Rosart for the following reasons.

**1. The Claimed Invention**

An overview of independent claims 1, 6, and 13 has been set forth above with regard to the claim rejections in view of Mahn.

**2. Rosart**

The Examiner posited that Rosart teaches a thermosetting plastic embossing member for producing decorative articles which could function as emblems. The Examiner posited that the manner in which the impressions are formed on the embossing member is not dispositive of the patentability of the claims which are directed to an article. The Examiner

posited that the inclusion of a base layer for extra support on the back of the Rosart embossing member would have been an obvious expedient in the absence of unexpected results.

### 3. The Claimed Invention Compared to Rosart

Noting that a “sheet” is generally regarded as “a broad, thin, usually rectangular mass or piece of material, such as paper, metal, glass, or plywood,” *American Heritage Dictionary* (3<sup>rd</sup> Ed. 1996), Rosart does not disclose a “cover sheet” as claimed, nor does Rosart disclose a “base layer” (or “base sheet”) with a “heat application release coating” as set forth in independent claims 1 (or 13). Moreover, Rosart teaches a thermosetting plastic embossing member 36 (i.e., a die formed by a mold - see col. 7, lines 48-53) and, hence, is likewise completely silent as to the limitations of independent claims 1 and 13 that the “heat application release coating on the base layer [the base sheet] . . . exhibit[s] a heat resistant and pressure resistant debossed or embossed impression” and that “said cover sheet, when placed with its release coating against and in registry with the thermoplastic surface of an emblem and heat and pressure are applied on said cover sheet and toward the emblem, the pattern is formed on the thermoplastic surface of the emblem” (emphasis added).

Likewise, with respect to dependent claims 4-5 and 16-17, the resulting molded features or patterns on the embossing member 36 of Rosart teaches away from both a machined surface feature (“an engraved impression formed by using a laser cutter or a precision knife,” as recited in claim 4) and a pressure-formed surface feature (“an impression formed by stamping,” as recited in claim 5). When combined with the other shortcomings of Rosart with respect to the substantive elements recited in independent claims 1 and 13, the Applicant submits that claims 4-5 and 16-17 are not anticipated by Rosart.

Accordingly, the Applicant believes that independent claims 1 and 13 are patentable under 35 U.S.C. § 103(a) over Rosart. Claims 2, 4-5, 14, and 16-17 depend from one of independent claims 1 and 13 and include the limitations therein. Thus, the Applicant

respectfully requests reconsideration and withdrawal of the rejection to claims 1-2, 4-5, 13-14, and 16-17 under 35 U.S.C. § 103(a).

As indicated above, independent claim 6 recites a cover sheet combination for impressing a pattern on the surface of an emblem while affixing the emblem to a substrate. The cover sheet combination includes a cover sheet and an emblem. The cover sheet has a base layer and a release coating thereon. The emblem has an upper thermoplastic layer and a lower adhesive layer. As described above, Rosart generally discloses an embossing member 36. For argumentation purposes, the Applicant will assume that the embossing member 36 is analogous to either one of the cover sheet or the emblem. As such, Rosart only discloses one of the two claimed elements (i.e., only one of the cover sheet and the emblem) set forth in independent claim 6. Accordingly, the Applicant believes that independent claim 6 is patentable under 35 U.S.C. § 103(a) over Rosart. Thus, the Applicant respectfully requests reconsideration and withdrawal of the rejection to claim 13 under 35 U.S.C. § 103(a).

### **CONCLUSION**

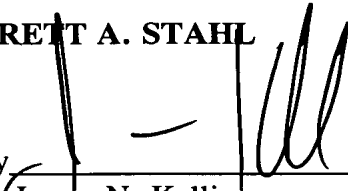
In summary, claims 1-6 and 13-17 meet the substantive requirements for patentability. The case is in appropriate condition for allowance. Accordingly, such action is respectfully requested.

If a telephone or video conference would expedite allowance or resolve any further questions, such a conference is invited at the convenience of the Examiner.

Respectfully submitted,

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